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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,801	03/23/2004	Jesse A. Branch III	X.9454	9952

7590 11/01/2005
J.W. Gipple
P.O. Box 40513
Washington, DC 20016

EXAMINER

SPAHN, GAY

ART UNIT PAPER NUMBER

3673

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/805,801

Applicant(s)

BRANCH, JESSE A.

Examiner

Gay Ann Spahn

Art Unit

3673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 7, 9 and 10.
Claim(s) rejected: 6-10.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 3673

Continuation of 3. NOTE:

With respect to 3(a), the presentation of new language in newly added claim 14 would require further consideration and possibly require a further search. The examiner does not understand why Applicant canceled claims 7-10 and rewrote them as new claims 11-14. This makes it harder for the examiner to ascertain that the subject matter of new claims 11-14 is the same as the subject matter of original claims 7-10, except for changes made apparently to deal with the examiner's objections to the claims. Particularly, in an Amendment After Final Rejection Under Rule 116 where Applicant has a limited right to make changes to the claims, Applicant should have presented claims 7-10 with the status identifier of "currently amended" and shown where the changes were being made by underlining for additions and strike-through for deletions and explained to the examiner that the changes were being made to deal with her objections to the claims. In addition, the examiner notes that new claim 13, in line 1, improperly has a strike-through therein (new claims cannot have amendments therein) and in line 2, has not corrected the objected to language of "the said joint".

With respect to 3(d), on the first page of the "Request for Reconsideration" filed on 17 October 2005, Applicant gave directions as to how claims 7 and 9 should be amended. However, claim 7 is not listed in the claim section and claim 9 is listed as "canceled". Therefore, it is not clear whether claims 7 and 9 are amended or canceled and since four new claims were added (claims 11-14), it appears that Applicant has presented additional claims without canceling a corresponding number of finally rejected claims.

Continuation of 11.

The Request for Reconsideration has been considered but does NOT place the application in condition for allowance because: Clark (either U.S. Patent Application Publication No. 2004/0244112 or U.S. Patent Application Publication No. 2005/0015876) discloses foot supports (7, 8) attached to the bottom surface (see Fig. 2) of the stand (1) and extending perpendicularly outward therefrom (see Fig. 2). Anyone of Hoffman '211 (U.S. Patent No. 4,673,211), Hoffman '130 (U.S. Patent No. 5,362,130), or Mourot (U.S. Patent No. 2,888,689) has been cited for its teaching of forked or divided end sections, the divisions commencing either at or near a foot support to form two or more prong sections extending upwardly and outwardly from the foot support. As the examiner stated in her Final Office Action, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hammock support stand of Clark so that the mid-section thereof were bifurcated at one end as taught by any one of Hoffman '211, Hoffman '130, or Mourot in order to distribute the force or weight of the hammock and its contents to provide more support and stability. In other words, Clark is relied upon for its teaching of arched foot supports attached an arched hammock stand and Hoffman '211, Hoffman '130, or Mourot have only been relied upon for their teaching that the arched hammock stand of Clark could be bi-furcated at one end and the arched foot supports would be attached to each prong of the bi-furcated stand in the same manner as taught by Clark.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/805,801

Examiner

Gay Ann Spahn

Applicant(s)

BRANCH, JESSE A.

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 17 October 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: (See Continuation Sheet).

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Continued from Box 4 (Amendments to Claims), A (A complete listing of all of the claims is not present):

(1). In the listing of claims section, claim 7 is not listed with a status identifier which is improper.

Continued from Box 4 (Amendments to Claims), C (Each claim has not been provided with the proper status identifier):

(1). In the listing of claims section, claim 7 is not listed with a status identifier which is improper.

Continued from Box 4 (Amendments to Claims), E (Other):

(1). On the first page of the "Request for Resconsideration" filed on 17 October 2005, Applicants gave directions for amending claims 7 and 9 by deleting the word "said" on line 1. This is improper since new amendment format effective July of 2003 no longer allows for amending claims in this manner.

(2). Additionally, in the listing of claims section, claim 1-5 and 8-10 have the status identifier of "canceled", but have entire text of the claim which is improper.

(3). Also, in the listing of claim section, claim 6 is listed with the status identifier of "Previously Presented", but claim 6 has period punctuation marks (i.e., ".") at the end of lines 7, 10, and 12, which period punctuation marks were not previously in claim 6 as amended in the amendment filed on 25 March 2005, and claim 6 also is missing a colon punctuation mark (i.e., ":") which was previously after the word "therefrom" in line 4